

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**WSOU INVESTMENTS, LLC D/B/A
BRAZOS LICENSING AND
DEVELOPMENT,**
Plaintiff,

v.

CANON INC.,
Defendant.

**CIVIL ACTION 6:20-cv-00980-ADA
CIVIL ACTION 6:20-cv-00981-ADA
CIVIL ACTION 6:20-cv-00982-ADA**

CANON INC.,
Third-Party Plaintiff,

v.

NXP USA, INC.,
Third-Party Defendant.

CIVIL ACTION 6:20-cv-00980-ADA

JOINT MOTION TO AMEND SCHEDULING ORDER

COME NOW, Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“WSOU”), Defendant and Third-Party Plaintiff Canon Inc. (“Canon”), and Third-Party Defendant NXP USA, Inc. (“NXP”) (collectively, the “Parties”), and hereby respectfully submit this Joint Motion to Amend Scheduling Order (the “Joint Motion”).

On June 1, 2021, the Court entered Scheduling Orders in the above-entitled cases. *See* Case No. 6:20-cv-00980 at Dkt. 38; Case No. 6:20-cv-00981 at Dkt. 29; Case No. 6:20-cv-00982 at Dkt. 29. On June 24, 2021, the Court issued its Order Governing Proceedings – Patent Case Version 3.4 (“OGP 3.4”), revising, among other things, (1) Defendant’s preliminary invalidity

contentions requirements and (2) Claim Construction Briefing requirements, including reversing the order in which Plaintiff and Defendant are to submit their respective briefing, and specifically stating that OGP 3.4 “shall apply retroactively to the Markman briefing in patent cases that are, as of the date of this order, at least thirty (30) days before the filing of the opening Markman brief.” *See* OGP 3.4 at pp. 1, 3-4. Because WSOU’s deadline to submit its opening claim construction brief under the Scheduling Orders is August 4, 2021, OGP 3.4 applies retroactively. Due to the change in the briefing process requiring Canon to file the Opening Claim Construction Brief and the closure of Canon’s offices the week of August 2, Canon requests a 12-day extension on *Markman*-related deadlines including the presently-scheduled *Markman* hearing from October 7, 2021 to October 19, 2021. Canon’s extension request will not impact the rest of the schedule and WSOU does not oppose Canon’s request. Accordingly, the Parties submit this Joint Motion to Amend the Scheduling Order to reflect Canon’s requested extension on pre-*Markman* scheduling, and the revised preliminary infringement contentions requirements and Claim Construction Briefing Requirements under OGP 3.4 as shown in the agreed case schedule attached as Exhibit A.

NXP’s Position: In addition to the foregoing, NXP understands the proposed schedule in Exhibit A applies to the various patent infringement disputes between the parties in Case Nos. 6:20-cv-00980, 6:20-cv-00981, and 6:20-cv-00982, only one of which involves Canon’s contract-based claims against NXP. NXP believes Canon’s claims against NXP should be tried separately, only after any patent infringement liability by Canon has been established in Case No. 6:20-cv-00980. NXP reiterates its prior request for a case management conference related to Canon’s Third Party Complaint against NXP. *See* Dkt. 37.

Date: July 16, 2021

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2021, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Jonathan K. Waldrop
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